

AGENDA ITEM #10

July 9, 2004

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Update on Pending Legislation:
AB 2476, Wolk, as amended through May 25, 2004
SB 1155, Machado, as amended through June 29, 2004
SB 86, Machado, as amended through June 16, 2004

BACKGROUND: All bills have passed out of house of origin. Upon approval of the budget, the Legislature starts its summer recess. Business resumes on August 2. All bills must pass out of the Legislature by August 31, the last day of session. The Governor has 30 days to sign or veto legislation.

STAFF RECOMMENDATION:

The Commission has voted to support **AB 2476** and **SB 86**. The Commission may vote again to support those bills, or let their existing positions remain in place.

The Commission has not taken a position on **SB 1155**; that bill is associated with increased pumping at the State Water Project pumps. The Commission may prefer to wait and review the entire South Delta Improvements Project when the draft environmental document is released later this year.

1. **AB 2476, Wolk** - Amendments to the Delta Protection Act of 1992:
***STATUS: No changes since last review by Delta Protection Commission.
Passed out of Assembly, To Senate Appropriations Committee on August 2***

Current Text of Delta Protection Act of 1992:	Proposed Amended Text:
29702 (a) Protect, maintain, and where possible, enhance and restore the overall quality of the delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.	29702 (a) Protect, maintain, and where possible, enhance and restore the overall quality of the delta environment, and its historical importance , including, but not limited to, agriculture, wildlife habitat, and recreational activities.
29703 (c) Agricultural lands located within the Primary Zone should be protected from the intrusion of nonagricultural uses.	29703 (c) Agricultural lands located within the Primary Zone should be protected from the intrusion of nonagricultural uses in the secondary

	zone.
29705	29705 (c) wildlife habitat located within the primary zone should be protected from the intrusion of nonagricultural uses in the secondary zone.
29706 The Legislature further finds and declares that the resource values of the delta have deteriorated, and that further deterioration threatens the maintenance and sustainability of the delta's ecology, fish and wildlife populations, recreational opportunities, and economic productivity.	29706 The Legislature further finds and declares that the resource values of the delta have deteriorated, and that further deterioration threatens the maintenance and sustainability of the delta's ecology, agriculture , fish and wildlife populations, recreational opportunities, historical importance , and economic productivity.
29707 The Legislature further finds and declares that there is no process by which state and national interests and values can be protected and enhanced for the delta, and that, to protect the regional, state and national interests for the long-term agricultural productivity, economic vitality, and ecological health of the delta resources, it is necessary to provide and implement delta land use planning and management by local governments.	29707 The Legislature further finds and declares that there is no process by which state and national interests and values can be protected and enhanced for the delta, and that, to protect the regional, state and national interests for the long-term agricultural productivity, economic vitality, historic value , and ecological health of the delta resources, it is necessary to provide and implement delta land use planning and management by local governments.
<p>29735 There is hereby created the Delta Protection Commission consisting of 19 members as follows:</p> <p>a) One member of the board of supervisors of each of the five counties within the delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of the county.</p> <p>b) Three elected city council members shall be selected and appointed by city selection committees, from regional and area councils of government, on in each of the following areas:</p> <ol style="list-style-type: none"> 1) One from the north delta, consisting of the Counties of Yolo and Sacramento. 2) One from the south delta, consisting of the County of San Joaquin. 3) One from the west delta, consisting of the Counties of Contra Costa and Solano. <p>c) (1) One member each from the board of directors of five different reclamation districts which are located within the primary zone who are residents of the delta, and who are elected by the trustees of reclamation districts within the following areas:</p> <p>(A) Two members from the area of the North Delta Water Agency...provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.</p> <p>(B) One member from the West Delta consisting of the area of Contra Costa County within the delta.</p> <p>(C) One member from the area of the Central Delta Water Agency...</p> <p>(D) One member from the areas of the South Delta Water Agency...</p> <p>(d) The Director of Parks and Recreation of the</p>	<p>29735 There is hereby created the Delta Protection Commission consisting of 24 members as follows: [the following new language is added to Section 29735]</p> <p>(j) The State Historic Preservation Officer or the officer's sole designee.</p> <p>(k) The public member of the California Bay-Delta Authority appointed by the Governor to represent the Sacramento and San Joaquin River Delta (delta) Region.</p> <p>(l) Three public members who are residents of the delta or representatives of non-governmental organizations associated with activities in the delta. The three public members shall be appointed by the Governor as follows:</p> <ol style="list-style-type: none"> (1) One member who has expertise in, and represents the interests of, wildlife conservation. (2) One member who has a background and experience in the field of environmental protection or the study of ecosystems. (3) One member who has expertise in boating or marina operations.

<p>director's sole designee.</p> <p>(e) The Director of Fish and Game or the director's sole designee.</p> <p>(f) The Director of Food and Agriculture or the director's sole designee.</p> <p>(g) The executive office of the State Lands Commission or the executive officer's sole designee.</p> <p>(h) The Director of Boating and Waterways or the director's sole designee.</p> <p>(i) The Director of Water Resources or the director's sole designee.</p>	
29739 The commission shall elect from its own members a chairperson and vice chairperson whose terms of office shall be two years and who may be reelected.	29739 The commission shall elect from its members a chairperson and vice chairperson whose terms of office shall be two years. The members elected as chairperson and vice chairperson shall be rotated each term among representatives from state, local and public interests.
29741 The time and place of the first meeting of the commission shall be prescribed by the Governor, but in no event shall it be scheduled for a date later than January 31, 1993. All meetings after the first meeting shall be held in a city within the delta.	29741 All of the commission's meetings shall be held within the delta.
29753 the commission shall appoint agricultural, environmental, and recreational advisory committees for the purpose of providing the commission with timely comments, advice, and information. The commission may appoint committees from its membership or may appoint additional advisory committees from members of other interested public agencies and private groups. The commission shall seek advice and recommendations from advisory committees appointed by local government which are involved in subject matters affecting the delta.	29753 the commission may appoint advisory committees as necessary for the purpose of providing the commission with timely comments, advice, and information. The commission may appoint committees from its membership or may appoint additional advisory committees from members of other interested public agencies and private groups. The commission shall seek advice and recommendations from advisory committees appointed by local government which are involved in subject matters affecting the delta.
29756 The commission may promote, facilitate, and administer the acquisition of voluntary private and public wildlife and agricultural conservation easements in the delta.	29756 The commission may promote, facilitate, and administer the acquisition of voluntary private and public habitat and agricultural conservation easements in the delta
29756.5 The commission may act as the facilitating agency for the implementation of any joint habitat restoration or enhancement programs located within the primary zone of the delta.	29756.5 The commission may act as the facilitating agency for the implementation of any programs for multi-objective flood control , joint habitat restoration or enhancement, or agricultural land conservation located within the primary zone and secondary zone of the delta.
	<p>29760.5 On or before October 1, 2006, the commission shall do both of the following:</p> <p>(a) Review the resource management plan, to identify changes and growth pressures within the primary zone.</p> <p>(b) Identify lands within the secondary zone that have not yet been converted to urban uses, but the conversion of which would impact the resources within the primary zone.</p>
29761 The Director of the Office of Planning and	29761 The Director of State Planning and Research

Research shall submit comments and recommendations on the resource management plan for the commission's consideration, prior to the plan's adoption.	shall submit comments and recommendations on the resource management plan for the commission's consideration, prior to the plan's adoption or update.
29761.5 No later than January 7, 1995, the commission shall transmit copies of the resource management plan to the Governor. Copies of the resource management plan shall be made available, upon request, to Members of the Legislature.	Repeal 29761.5
29762 The commission shall adopt, by a majority vote of the membership of the commission, the resource management plan after at least three public hearings, with a least on hearing held in a city in the north delta, the south delta, and the west delta.	29762 A change or update to the resource management plan shall be approved by the commission only after at least three public hearings, with a least one hearing held in the north delta, one hearing held in the south delta, and one hearing held in the west delta.
29763 Within 180 days from the date of the adoption of the resource management plan or any amendments by the Commission, all local governments shall submit to the commission proposed amendments that will cause their general plans to be consistent with the criteria in Section 29763.5 with respect to land located within the primary zone.	29763 Within 180 days from the date of the adoption of the resource management plan or any amendments, changes or updates to the resource management plan by the Commission, all local governments shall submit to the commission proposed amendments that will cause their general plans to be consistent with the criteria in Section 29763.5 with respect to land located within the primary zone.
29763.5 [This section lists the written findings for local government general plan amendments to ensure conformance with the regional management plan]	29763.5 Add the following: (l) The general plan, and any development approved or proposed that is consistent with the general plan, will not result in degradation to the cultural or historical value of delta communities.
29765 [This section lists the findings for approval of development in the primary zone prior to commission approval of local government general plans]	29765 Add the following: (k) The development will not result in degradation to the cultural or historical value of delta communities.
29776 Repealed.	29776 The Sacramento-San Joaquin Delta Protection Fund is hereby created in the State Treasury. Any money in the Sacramento-San Joaquin Delta Protection Fund is available, upon appropriation by the Legislature, for support of the commission.
29777 Repealed.	29777 The Commission shall not incur costs in excess of the amount of funds available for expenditure by the commission in any fiscal year.

2. SB 1155, Machado - Water Quality Standards in the Sacramento-San Joaquin Delta

***STATUS: Amended on June 29, 2004. Passed out of Senate on May 25;
To Assembly Appropriations Committee on August 4.***

Amendment deleted text; proposed bill adds Section 138.10 to the Water Code
(underlined text has been added as of June 29):

(a) On or before January 1, 2006, the director, in collaboration with the Secretary of Interior or his or her designee, shall prepare a plan to meet the existing permit

and license conditions for which the department has an obligation, as described in the State Water Resources Control Board Decision No. 1641.

- (b) The plan shall be designed to achieve compliance with the permit and license conditions described in subdivision (a). The director shall prepare the plan, and submit copies of the plan to the board and the California Bay-Delta Authority, prior to increasing the existing permitted diversion rate at the State Water Project's Harvey O. Banks Pumping Plant.
- (c) Nothing in the section limits or restricts the department in its operation of the State Water Project due to failure of other water rights permittees or licensees to meet water quality conditions of their respective permits or licenses.

3. **SB 86, Machado-Sacramento-San Joaquin Delta Conservancy Program**
STATUS: Amended on June 16. Passed out of Senate, Placed on Assembly Appropriations Suspense File.

BACKGROUND: The Commission reviewed the original bill in March 2003. The Commission voted to support the bill with changes. Senator Machado so amended the bill, however, the bill was subsequently amended to address other legislative matters. Now SB 86 has been amended back to its original text, with the amendments requested by the Commission. The bill would set up a Delta Conservancy Program, administered by the California Coastal Conservancy, with a review role for the Commission. No funds are currently available to fund the Delta Conservancy Program.

Chapter 4.6 (commencing with Section 31180) is added to Division 21 of the Public Resources Code, to read:

CHAPTER 4.6. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY PROGRAM

31180. The Sacramento-San Joaquin Delta Conservancy Program is established pursuant to this chapter, to be administered by the conservancy, for the purpose of restoring, enhancing, and protecting the unique agricultural, economic, natural, cultural, recreational, public access, and urban waterfront resources and opportunities of the Sacramento-San Joaquin Delta in a coordinated, comprehensive, and effective manner.

31181. (a) The Legislature hereby finds and declares that the Sacramento-San Joaquin Delta constitutes a region of significant statewide importance to the people of California. The Legislature further finds and declares that one of the state's primary goals for the delta is to protect, maintain, enhance, and restore the overall quality of the delta environment with respect to resources, including, but not limited to, agriculture, wildlife habitat, public access, and recreational opportunities. (b) The Legislature further finds that, in order to protect the delta, it is important that urban development not occur in the primary zone, as defined in Section 29728, so that agriculture, wildlife, and recreation are allowed to flourish.

31182. For purposes of this chapter, the following terms have the following meanings: (a) "Commission" means the Delta Protection Commission as established pursuant to Chapter 3 (commencing with Section 29735) of Division 19.5. (b) "Delta" means the

Sacramento-San Joaquin Delta, as defined in Section 12220 of the Water Code, and, in addition, the area within the incorporated limits of the City of Rio Vista. (c) "Program" means the Sacramento-San Joaquin Delta Conservancy Program established pursuant to this chapter.

31183. The conservancy may undertake projects in the delta with public and private entities, and may award grants or loans, or both, to public agencies, nonprofit organizations, and private entities to achieve the following goals of the program: (a) Implementation of the long-term resource management plan adopted by the commission under Section 29760. In undertaking and funding projects designed to implement the resource management plan and projects undertaken by the conservancy not included in the resource management plan, the conservancy shall work in conjunction with the commission and shall consult public and private entities and individuals, including advisory committees established under Section 29753 and similar groups, as appropriate. (b) Promotion of farming in a manner that integrates agricultural activities with environmental protection and that also sustains the economics of the region through wildlife-friendly farming practices, implementation of innovative farming technology, improvement of water quality and water usability, enhancement of habitat, integrated pest management practices, and other approaches. (c) Protection of farmland, including, but not limited to, land used or usable for grazing. (d) Restoration, enhancement, and protection of open-space and natural areas. (e) Compatibility of agricultural and other private land uses, recreational and educational uses, and wildlife protection. (f) Implementation of the policies, programs, and plans of the commission, the CALFED Bay-Delta Program, and the adopted plans of local governments and special districts that are consistent with the policies, programs, and plans of the commission. (g) Collaboration with public or private entities and individuals that support the economy of the communities and rural areas of the delta, including urban waterfronts. (h) Provision of public access and recreational opportunities. (i) Provision, protection, and enhancement projects that provide open-space and natural areas. (j) For purposes of this chapter only, the conservancy may not undertake or fund an acquisition of property rights where there is not a willing seller. In addition, the conservancy may not undertake or fund an acquisition of property rights that is in conflict with existing rights of mineral interests owners.

31184. In developing projects under the program, the conservancy shall give priority to those projects that meet all of the following criteria: (a) Supported by adopted local or regional plans. (b) Serve a multi-jurisdictional or regional constituency. (c) Include matching funds from other sources of funding or assistance. The matching funds obligation can be satisfied by the provision of in-kind activities that further the goals of the conservancy. (d) Can be implemented in a timely manner. (e) Serve more than one of the goals described in Section 31183.

31185. At least 60 days prior to the conservancy approving the implementation of a program project, the conservancy shall submit a project description summary to the commission for review. If the commission has not, within 60 days from the date of that submission, acted to disapprove the proposed project on the grounds that the project is in conflict with the long-term resource management plan, the project may proceed pursuant to this division.

31186. (a) The Sacramento-San Joaquin Delta Conservancy Program Account is hereby created in the State Coastal Conservancy Fund for the purpose of depositing and disbursing funds for the administration and implementation of the program. (b) (1) The money in the account created pursuant to subdivision (a), which shall be available for expenditure upon appropriation by the Legislature, shall be segregated into two subaccounts, as follows: (A) The first subaccount shall contain state funds that are appropriated by the Legislature for the purposes of this chapter. All interest that accrues on the funds in this subaccount shall be transferred to, and deposited into, the General Fund. The conservancy shall account for all deposits of funds in this subaccount that are derived from funds that were appropriated by the Legislature for the purposes of this chapter. (B) The second subaccount shall contain nonstate funds that are derived from other sources, exclusive of federal funds, for the purposes of this chapter, including, but not limited to, private donations made for the purposes of this chapter, regulatory fees, and local government contributions made for the purposes of this chapter. All interest that accrues on the funds in this subaccount shall be retained in the subaccount and shall be available for expenditure by the conservancy for the purposes of this chapter. Not more than 3 percent of the funds that are deposited in this subaccount shall be utilized by the conservancy for general administration and planning purposes. No funds may be expended from this subaccount for an activity that would require a commitment of state funds in the future. The conservancy shall account for all deposits of funds in this subaccount for the purposes of this chapter. (2) All reimbursements, proceeds of sale, or other money received by the conservancy for the purposes of this chapter that are not expended on projects authorized under the program shall be deposited in the appropriate subaccount of the account. (c) The conservancy is not required to undertake an activity pursuant to this chapter until funds from new sources that are not available to the conservancy as of January 1, 2005, are appropriated by the Legislature or otherwise made available to the conservancy for those purposes, and until the State Coastal Conservancy Fund is reimbursed from moneys in the account for all administrative or general planning funds expended by the conservancy for the purposes of this chapter prior to the appropriation of funds to, or the availability of funds in, the account for those purposes. In accomplishing the objectives of this chapter, the conservancy may exercise its authority as provided for in this division, as well as pursuant to all other express or implied authority granted to the conservancy.

31187. In the report to the Governor and the Legislature required by Section 31108, the conservancy shall discuss its progress in addressing the goals of this chapter, including, but not limited to, implementation of the long-term resource management plan adopted by the commission under Section 29760.